

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant:	John R. Jacobson et al.	Art Unit:	1792
Serial No.:	09/808,584	Examiner:	Edwards
Filed:	March 14, 2001	Confirmation No.:	3434
Customer No.:			
Appeal No.:	2008-3155		
Title:	COATING APPARATUS		

MAIL STOP APPEAL BRIEF-PATENTS

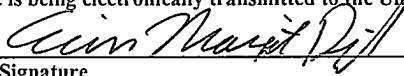
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REHEARING UNDER 37 CFR 41.52

Appellants respectfully request rehearing under 37 CFR 41.52 from the September 29, 2008 Decision on Appeal issued by the Board of Patent Appeals and Interferences on the above-captioned application.

CERTIFICATE OF TRANSMISSION

I hereby certify under 37 CFR § 1.8(a) that this correspondence is being electronically transmitted to the United States Patent and Trademark Office, by EFS-Web, on October 16, 2008.



Signature

Erin Margit Daika

Typed or Printed Name of Person Signing Certificate

I. POINTS BELIEVED TO BE MISAPPREHENDED OR MISUNDERSTOOD BY THE BOARD

A. WHETHER THE STENCIL OF JONKERS TRANSFERS A COATING COMPOSITION TO AN ARTICLE?

The Board of Patent Appeals and Interferences (the Board) has misunderstood the nature of the dispute that prompted Appellants' Appeal and has misapprehended the requirements of claim 1. The issue before the Board in the above-captioned matter was not whether the stencil of Jonkers was an applicator, as is asserted in its September 29, 2008 Decision on Appeal (Decision); rather, the issue was whether the stencil of Jonkers transfers a coating composition to an article. The Board has not issued a finding of fact as to whether or not the stencil of Jonkers transfers a coating composition to a web. The failure to make a finding with respect to this issue demonstrates that the Board misunderstood the issue that was in dispute. In addition, the Board has expressly issued a finding that "Jonkers discloses a squeegee [that] ... presses a dyepaste through a stencil for printing of a web" (October 1st Decision, FF (1).) Based on this finding, the Board should have concluded that Jonkers fails to teach a required element of claim 1. The failure to reach such a conclusion demonstrates that the Board misapprehended the requirements of claim 1. In light of the above, Appellants submit that a rehearing is warranted.

Claim 1 recites, in relevant part, "a metering bar ... positioned against the applicator to meter a predetermined amount of coating composition to the applicator for transfer to an article." Thus, claim 1 requires the applicator to transfer the coating composition to an article. The Board determined that the stencil of Jonkers is an applicator. Therefore, to meet the limitations of claim 1, the stencil of Jonkers must transfer a coating composition to an article. The stencil of Jonkers does not transfer the coating composition to an article. The stencil determines the pattern of the coating composition that passes through the openings therein, but it does not transfer the coating composition to an article. Rather, it is the squeegee of Jonkers that transfers the coating composition to an article (in the case of Jonkers this article is a web). In other words, the coating composition of Jonkers is not applied to the stencil and then transferred from the

stencil to a web. Rather, the coating composition of Jonkers is applied directly to the web by the squeegee.

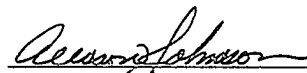
In order for the stencil of Jonkers to transfer the coating composition to the web, the coating composition would have to be on the exterior surface of the stencil. At no point does Jonkers teach or suggest that the coating composition is present on the exterior surface of the stencil. The coating composition of Jonkers also is not inherently present on the exterior surface of the Jonkers stencil, because if it were, it would interfere with the pattern being printed as a result of the stencil. Jonkers thus fails to teach or suggest a required element of the coating apparatus of claim 1, i.e., an applicator that transfers a coating composition to an article. As such, the rejection of claim 1 under 35 U.S.C. § 103 over Jonkers in view of Jaffa et al. is unwarranted.

Appellants respectfully request that the Board grant Appellants' Request for Rehearing and issue a decision on rehearing 1) finding that the stencil of Jonkers does not transfer a coating composition to a web, and 2) concluding that a) Jonkers does not teach a coating apparatus that includes an applicator that transfers a coating composition to an article, b) the rejection of claim 1 under 35 U.S.C. § 103 over Jonkers in view of Jaffe is unwarranted and overruled, and c) the rejection of claims 32-34 under 35 U.S.C. § 103 over Jonkers in view of Jaffa et al. and Kirth-Othmer is unwarranted and overruled.

Please charge any additional fees that may be required or credit any overpayment made to Deposit Account No. 501,171.

Respectfully submitted,

Date: October 16, 2008


Allison Johnson
Reg. No. 36,173

Allison Johnson, P.A.
Lake Calhoun Executive Center
3033 Excelsior Blvd., Suite 467
Minneapolis, MN 55416
Telephone (612) 929-0700
Facsimile (612) 929-0706